



Case:	9-61-06VW
Location:	2955 & 2957 Brownsboro Road
Owner	Joseph & Bianca Wall, Daniel Jordan Wall
Applicant:	Joseph & Bianca Wall, Daniel Jordan Wall
Engineer:	BTM
Area:	0.3 acres
Form District:	Neighborhood
Zoning District:	R-5 to OR
Existing Use:	Two Single-family residential homes
Proposed Use:	Parking lot and office
Jurisdiction:	Louisville Metro
Council District:	9—Tina Ward Pugh
Case Manager:	Stephen A. Lutz, AICP

Request

Change in zoning from R-5 Single-Family Residential to OR Office Residential on property located at 2955 & 2957 Brownsboro Road, a variance to reduce the parking and maneuvering to be 0-feet from the Brownsboro Road property line, and waivers to reduce perimeter landscaping on the north property line from 15-feet to 5-feet with a 6-foot solid wood fence, containing 0.3 acres total and being in Louisville Metro.

Staff Recommendation

Staff recommends the rezoning, variances and waivers be denied.

Case Summary / Background **Summary**

The applicant is proposing to demolish the existing structure on the site at 2955 Brownsboro Road for a parking lot, and convert the existing structure at 2957 Brownsboro Road to an office.

There will be one entrance on Rebel Road. No through-connections (via easements) are proposed for the adjacent properties, and none are needed.

Site Context

The site is zoned R-5. To the north and east is R-5 property, to the west is C-1 and to the south is C-2.

Land Use / Zoning District / Form District

	Land Use	Zoning	Form District
Subject			
Existing	Single-family residential	R-5	Neighborhood
Proposed	Office	OR	Neighborhood
Surrounding			
North	Single-family residential	R-5	Neighborhood
South	Commercial	C-2	Neighborhood
East	Single-family residential	R-5	Neighborhood
West	Commercial	C-1	Neighborhood

Background

No previous zoning cases have occurred on this site.

Project History

Project History	Date	Issues addressed / discussion / changes to proposal
Pre-application meeting	2/11	
Project submittal	11/06/06	
Staff review	11/3/06	Inter-agency (Pre-DRC) review
Revision submittal #1	3/9/07	
Site Inspection	11/17//06	Land use inappropriate. Destruction of a Single-family residential house for a parking Lot is not desirable.
LD&T	5/10/07	Concerns were raised about the use
Public hearing	7/5/07	

Note: The following information represents staff analysis of the subject property with respect to site inspection/observation, sound planning practices, and adopted policies and regulations of the jurisdiction. Materials submitted by the applicant or their representative prior to the deadline for filing information related to cases docketed for this hearing were reviewed and specifically applied in the staff review of this request. The board is advised to consider this staff report as well as new information introduced at the hearing in formulating their decision.

To be reviewed at Public Hearing

Relationship to Comprehensive Plan – Cornerstone 2020 Plan Elements

Form Districts / Activity Centers / Compatibility / Open Space

1.B.3 Neighborhood Form Districts are characterized by predominately residential uses that vary in density and blend with existing land uses. Commercial or office activity centers are generally limited to property at the intersection of an arterial or collector level street and offering a mixture of appropriate land uses at locations that support the population while providing adequate accessibility and connectivity for automobile, transit, pedestrian, and bicycle transportation modes. This site is on an arterial level street (Brownsboro) and is of a relatively small size and intensity. There are commercial uses both across Brownsboro Road from the site and to the west. This site itself, however, is separated from the commercial use to the west by Rebel Road, and is part of a solid single-family residential block. The demolition of a single-family residential structure for a parking lot and the conversion of the house at 2957 Brownsboro Road appears to be destabilizing to this single-family residential block. Given the existing land use pattern in the area it does not appear that this location is suitable for a non-residential land use.

In addition, a review of land use patterns in the area tends to suggest that there are ample available vacant structures zoned appropriately for office use. The applicant should explain why the demolition of what appears to be a structurally sound single-family residential house is justified given the apparent abundant alternative sites nearby suitable for potential small office uses.

3.1, 3.2, 3.4, 3.9, 3.11, 3.23 Compatibility for the proposed new development should be appropriate in scale, site design, and the pattern of development with adjacent residential areas. Non-residential expansion into residential areas is discouraged unless the applicant can demonstrate how the adverse impacts of traffic, parking, signage, lighting, noise, odor, and stormwater-runoff will be mitigated. Furthermore, visual impacts of the proposed development should be mitigated when appropriate by protecting the character of residential areas, roadway corridors, and public spaces from visual intrusions. In terms of compatibility with the single-family residential structures nearby, the conversion of the single-family residential house at 2957 Brownsboro Road is less of a concern than the demolition of the home at 2955 Brownsboro Road for parking. The demolition of the house, to construct a parking lot, appears to destabilize the residential block face of this section of Brownsboro Road and could lead to pressure to remove or convert additional homes on the Rebel Road/Brownsboro Road block. In addition, to construct the parking lot, the applicant needs a variance and a waiver to construct the parking lot right up to the edge of the property line, as well as a waiver of the landscaping requirements adjacent to the single-family residential home to the north. Given that the lot size is too small to accommodate a parking lot without variances and waivers, and that it is an

intrusion into a solid single-family residential block, this use appears to be incompatible with the neighborhood.

Standard of Review

Criteria for granting the proposed rezoning:

1. The proposed rezoning complies with the applicable guidelines and policies Cornerstone 2020; **or**
2. The existing zoning classification is inappropriate and the proposed classification is appropriate; **or**
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Cornerstone 2020 which have substantially altered the basic character of the area.

Waiver

A waiver of the required landscaping as listed below:

Location	Requirement	Request	Waiver
North property line	15 foot LBA	5-foot LBA, with 6-foot fence	10-feet
Along Brownsboro Road	5-foot LBA	0-foot LBA	5-feet

Conditions to be met to grant the waiver:

1. The waiver will not adversely affect property owners.
2. The waiver will not violate the guidelines of the Comprehensive Plan.
3. The extent of the waiver is the minimum necessary to afford relief to the applicant.

And:

The applicant has incorporated other design measures that exceed the minimums of the district, which compensate for non-compliance with the requirements to be waived.

Or:

That strict application of the provisions of the regulation would deprive applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

Staff analysis:

The requested waivers are the result of the lot being too narrow to provide the required landscaping, along either Brownsboro Road or along the adjoining property line. While the lot configuration is not the result of choices made by the applicant, the narrowness of the lot is indicative that the proposal may be ill-advised from both a design as well as land use perspective.

The applicant proposes to mitigate the waivers with a six-foot fence adjacent to the side property line, and bushes along the perimeter of the site adjacent to Brownsboro Road. Given the relatively low intensity nature of the proposed use (offices), these mitigation measures may be adequate to screen and buffer the site.

Variance:

Location	Requirement	Request	Variance
Brownsboro frontage	10-foot front yard	0-foot front yard (parking lot)	10-feet

The applicant requests a variance for the parking lot to be located zero-feet from the Brownsboro R/W line.

In order to justify approval of the variance, the Planning Commission considers four criteria.

- a.) Will not adversely affect the public health, safety or welfare.

Staff analysis: this variance is the result of the need for a R/W dedication on Brownsboro. The existing green space “verge” will remain between the sidewalk and the pavement on Brownsboro. There should be no impact on public health or safety if this variance is granted, unless additional paved area or driving lanes are added to Brownsboro Road in the future.

- b.) Will not alter the essential character of the general vicinity.

Staff analysis: this variance may alter the essential character of the area, as none of the residential structures nearby have parking this close to street R/W.

- c.) Will not cause a hazard of a nuisance to the public.

Staff analysis: this variance will not result in a hazard or nuisance if Brownsboro Road is not widened, as the verge will separate traffic from pedestrians, and the line of sight from the access point on Brownsboro meets applicable sight-line standards.

- d.) Will not allow an unreasonable circumvention of the requirements of the zoning regulation.

Staff analysis: Granting this variance may result in an unreasonable circumvention of the zoning regulation, given the pattern of single-family residential development in the area.

Technical Review

1. Renderings of the building after conversion should be provided if any changes are proposed for the façade.
2. Compliance with lighting standards should be demonstrated prior to the issuance of a building permit.

Standard Binding Elements (applicable to all cases of this type)

1. The development shall be in accordance with the approved district development plan and binding elements unless amended pursuant to the Land Development Code. Modifications to the binding element(s) shall be submitted to the Planning Commission or its designee for review and approval; any modifications not so referred shall not be valid.
2. The square footage of the development shall not exceed 3,000 square feet.
3. Signs shall be in accordance with Chapter 8 of the LDC.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
6. Prior to issuance of a permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit):
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer shall obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
7. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be

implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the (date) LD&T / PC meeting.
10. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained there after. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.
11. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

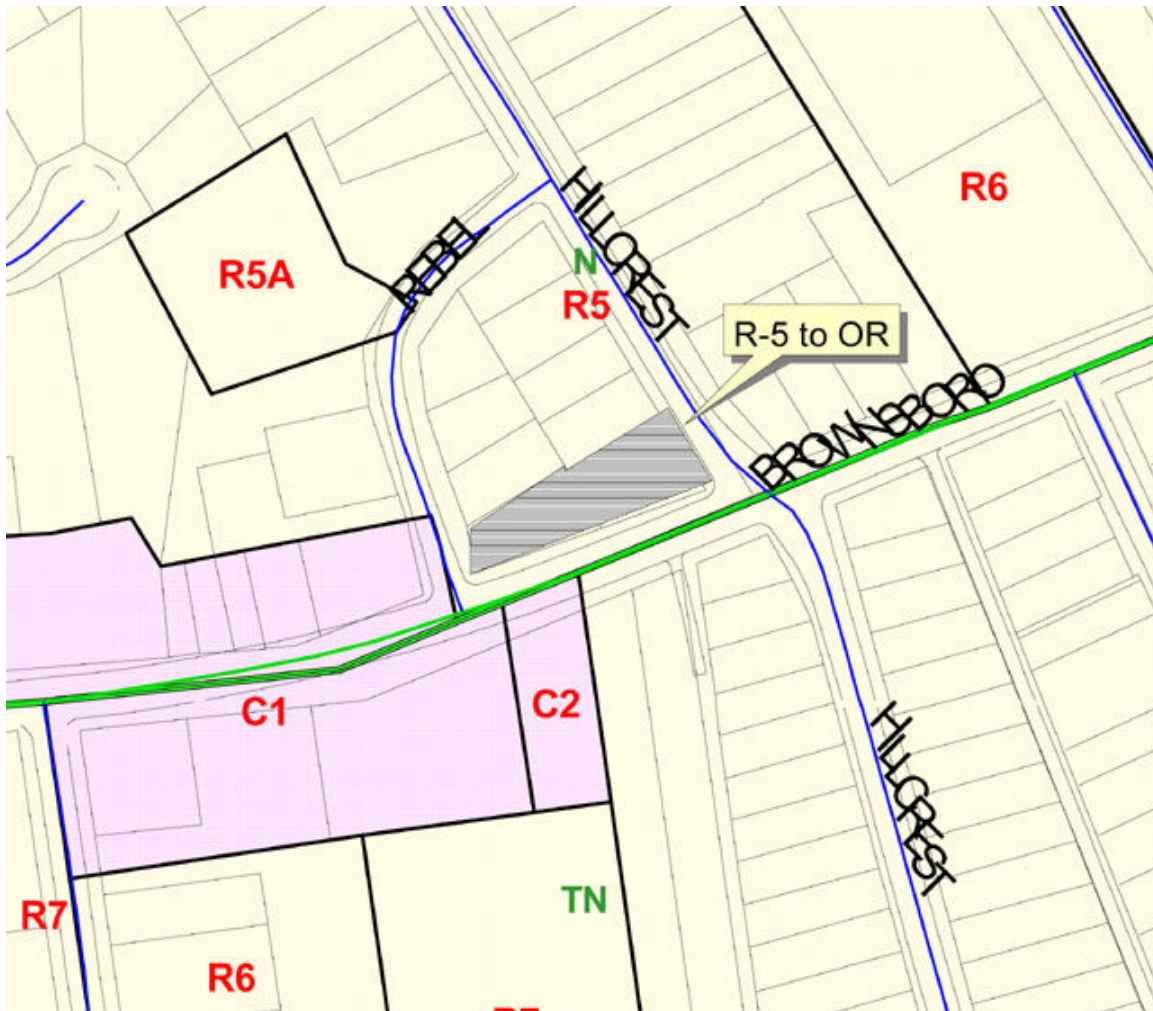
All binding elements and/or conditions of approval stated in this report are accepted in total without exception by the entity requesting approval of this (these) development item(s).

Name

Title

Date

Attached Documents / Information
Zoning Map



Notification

The following forms of notification were provided pertaining to this proposal:

Notification

Date	Description	Recipients
4/25/07	Neighborhood Notification	Registered parties
4/25/07	Adjoining Property Owner Notice	APOs